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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

**USA DIETARY SUPPLEMENTS, INC.,
a Nevada corporation**

Plaintiff,

vs.

ELI ALOISI, individually,
ABOVE ALL OFFERS, INC., an Oregon
corporation, and DOES 1 to 100, inclusive,

Defendants.

Case No.: CV 17-5246 DMG (SSx)
Hon. Dolly M. Gee

FIRST AMENDED COMPLAINT FOR:

1. TORTIOUS INTERFERENCE WITH CONTRACTUAL RELATIONS;
2. FRAUD;
3. CIVIL CONSPIRACY TO COMMIT FRAUD;
4. UNFAIR COMPETITION IN VIOLATION OF BUS. & PROF. CODE § 17200;
5. RACKETEERING IN VIOLATION OF 18 U.S.C. § 1962(c);
6. CONSPIRACY TO ENGAGE IN RACKETEERING ACTIVITY IN VIOLATION OF 18 U.S.C. § 1962(d);

JURY TRIAL DEMANDED

Plaintiff USA DIETARY SUPPLEMENTS, INC. (“USA DIETARY SUPPLEMENTS”) by and through undersigned counsel, for its First Amended Complaint against Defendants ELI ALOISI, ABOVE ALL OFFERS, INC., and DOES 1 to 100, inclusive, (collectively “DEFENDANTS”) alleges and avers as follows:

1 **I. INTRODUCTION**

2 1. USA DIETARY SUPPLEMENTS, INC. (“USA DIETARY SUPPLEMENTS”)
3 brings this action arising from a business relationship that began in January 25, 2017 whereby
4 Defendant ABOVE ALL OFFERS, INC. (“AAO”) was engaged to provide quality internet
5 “CPA (cost per acquisition) traffic” (“traffic”) for USA DIETARY SUPPLEMENTS’
6 nutritional products through AAO’s network of affiliates and publishers located throughout
7 the U.S. and internationally. This traffic was represented by AAO as being quality and
8 legitimate traffic which complied with stringent standards and which did not employ
9 fraudulent practices to market USA DIETARY SUPPLEMENTS’ products to the public.

10 2. On or about April 18, 2017, USA DIETARY SUPPLEMENTS noticed that it
11 was experiencing a high volume of credit card chargebacks from orders generated from
12 AAO’s internet traffic. USA DIETARY SUPPLEMENTS then discovered that AAO and its
13 network of publishers and affiliates in fact employed the use of fraudulent acts including, but
14 not limited to, publishing fake news, fake celebrity endorsements and fake ESPN stories
15 featuring the use of USA DIETARY SUPPLEMENTS’ products by Lebron James.

16 3. The operation of AAO, ALOISI and DOES 1 to 100 was conducted in a
17 fraudulent manner, and in breach of duties owed to USA DIETARY SUPPLEMENTS,
18 through conduct including the billing of transactions that were generated by traffic that
19 employed the use of fake news, use of fake celebrity endorsements, fake survey ads as well as
20 the use of CAKE software using the “Static Throttle” function to misreport the actual number
21 of transactions, and the use of other fraudulent and noncompliant sources of internet traffic
22 and software which caused USA DIETARY SUPPLEMENTS severe harm and blowback to
23 its business.

24 **II. PARTIES**

25 4. Plaintiff USA DIETARY SUPPLEMENTS, INC. (“USA DIETARY
26 SUPPLEMENTS”) is a corporation formed in the State of Nevada. Its head office and
27 principal place of business is located in Burbank, California. USA DIETARY
28 SUPPLEMENTS sells nutritional dietary supplement products online to customers in the U.S.
 Its Chief Executive Officer is Joseph Wanamaker (“WANAMAKER”).

1 5. Defendant ELI ALOISI (“ALOISI”) is a resident of, and conducts business in,
 2 the State of Oregon. ELOISI is president of Defendant ABOVE ALL OFFERS, INC.
 3

4 6. Defendant ABOVE ALL OFFERS, INC. (“AAO”) is a corporation formed in
 5 the State of Oregon. AAO operates a global network of affiliates and publishers who provide
 6 their marketing services to advertisers.

7 7. Plaintiff is in the process of confirming the true names and capacities of the
 8 defendants designated in this Complaint as DOES 1 to 100, inclusive, and therefore sues these
 9 defendants by fictitious names at this time. DOES 1 to 100 are affiliates or related entities to
 10 the named defendants and, on information and belief, are residing in the State of California
 11 and this judicial district, or have transacted business in the State of California during the time
 12 period covered by this Complaint, and are subject to the jurisdiction of this Court.

12 **III. SUBJECT MATTER JURISDICTION AND VENUE**

13 8. The court has jurisdiction over USA DIETARY SUPPLEMENTS’ claims under
 14 28 U.S.C. § 1331 and 18 U.S.C. § 1964(c) and §1964(d). Plaintiff USA DIETARY
 15 SUPPLEMENTS’ fifth and sixth counts arise out of the same case or controversy as its
 16 federal claims, as all claims in this action arise from a common nucleus of operative facts.
 17 The court has supplemental jurisdiction over USA DIETARY SUPPLEMENTS’ state law
 18 claims pursuant to 28 U.S.C. §1337.

19 9. The United States District Court for the Central District of California is the
 20 appropriate venue for this action pursuant to 28 U.S.C 1391(b)(1) and (2) because at least one
 21 defendant resides in this district and a substantial part of the events or omissions giving rise to
 22 the claims took place in the Central District of California.

23 **IV. PERSONAL JURISDICTION**

24 10. Exercise of jurisdiction over Defendants ALOISI, AAO, and DOES 1 to 100 is
 25 reasonable and proper because each has extensive contacts with the State of California
 26 including the Defendants’ unlawful and fraudulent acts alleged in this Complaint. ALOISI
 27 and AAO both participated in directing tortious acts of interference with contractual relations
 28 at USA DIETARY SUPPLEMENTS and PELEKAN PARTNERS who are both situated and
 based in the State of California.

1 **V. FACTS**

2 11. Plaintiff is informed and believes and on the basis of such information alleges
 3 that at all material times Defendant AAO was beneficially owned by Defendant ALOISI.
 4 Plaintiff is informed and believes that there exists, and at all times herein mentioned there
 5 existed a unity of interest and ownership between ALOISI on the one hand, and AAO on the
 6 other hand, such that individuality and separateness between ALOISI on the one hand and
 7 AAO on the other hand, has ceased, and AAO is the alter ego of ALOISI, in that it is, and at
 8 all times herein mentioned was, a mere shell, instrumentality and conduit through which
 9 ALOISI carried on his activities, exercising complete control and dominance of the
 10 corporation to such an extent that any individuality or separateness of the entity from the
 11 individual does not, and at all times herein, did not exist. Therefore adherence to the fiction to
 12 the separate existence of AAO as an entity distinct from ALOISI would permit an abuse of
 13 the corporation privileges and would sanction fraud and promote injustice. ALOISI is,
 14 consequently, liable to Plaintiff for the conduct of AAO with respect to the obligations and
 15 omissions as alleged herein.

16 12. The names and capacities of Defendant DOES 1-100, inclusive, are unknown to
 17 Plaintiff, who therefore sues said Defendants by such fictitious names. Plaintiffs will amend
 18 this Complaint to allege the true names and capacities of said Defendants when ascertained.
 19 Plaintiffs is informed and believes, and based thereon alleges, that each fictitiously named
 20 Defendant is legally responsible to Plaintiffs for the damages alleged herein.

21 13. Plaintiff is informed and believes and thereon alleges that at all material times,
 22 each Defendant was the agent and employee of all other Defendants, acting within the course
 23 and scope of such agency and employment with the full knowledge, consent, authority,
 24 ratification, and permission of the remaining defendants. At the time and place of the events
 25 hereinafter mentioned, the Defendants, and each of them, were engaged in a joint venture and
 26 common enterprise and were acting within the scope of and in pursuance of the joint venture
 27 and common enterprise.

28 14. Plaintiff is informed and believes and thereon alleges that at all material times
 each Defendant was part of a conspiracy to commit the wrongs alleged herein, and acted in

1 concert with all other Defendants with mutual knowledge, agreement, participation, and
2 cooperation to accomplish the wrongful and fraudulent plan herein, and as such each
3 Defendant is jointly and severally responsible for the harm resulting to Plaintiff.

4 15. On or about January 20, 2017, in a telephone conversation, WANAMAKER
5 and his Associate, Christine Naud, on behalf of USA DIETARY SUPPLEMENTS, told
6 ALOISI and AAO account manager, Jacki Clason, that USA DIETARY SUPPLEMENTS
7 needed AAO's network of publishers and affiliates to provide legitimate and compliant traffic
8 for USA DIETARY SUPPLEMENTS' sales campaign of nutritional products.

9 WANAMAKER and Naud explained to ALOISI and Clason that USA DIETARY
10 SUPPLEMENTS had a very bad experience with its previous affiliate network due to the
11 affiliate network employing affiliates and publishers who used fake news websites and fake
12 celebrity endorsements to advertise USA DIETARY SUPPLEMENTS' products.

13 WANAMAKER told ALOISI and Clason that the fake publicity caused severe blowback due
14 to mass cancellation of orders, requests by customers for refunds, and massive chargebacks
15 levied by credit card processors which in turn caused USA DIETARY SUPPLEMENTS'
16 merchant accounts to be terminated and assessed large fees and charges. WANAMAKER told
17 ALOISI and Clason that USA DIETARY SUPPLEMENTS had received a cease and desist
18 order from The Walt Disney Company / ESPN because of a prior fake ESPN ad campaign.
19 WANAMAKER expressly stated that he did not want AAO's services to include fake websites
20 or fake celebrity endorsements.

21 16. In a Skype telephone conference call on January 25, 2017, in response to
22 WANAMAKER'S concerns over fake publicity, AAO account manager, Jacki Clason, told
23 WANAMAKER that AAO was "very quality oriented" and assured him there would be "no
24 use of celebrity images, names, or doctors, without their express written consent", fake news, fake
25 celebrity endorsements or fake survey traffic." Jacki Clason stated that AAO "did not tolerate
26 noncompliance" with these standards.

27 17. In a Skype telephone conference call on January 25, 2017, Defendants ALOISI
28 and AAO (collectively, "Defendants") stated to WANAMAKER and USA DIETARY
SUPPLEMENTS that:

- 1 a. AAO would provide quality, legitimate and compliant traffic from its network
2 of affiliates and publishers;
- 3 b. AAO were experts in online affiliate marketing;
- 4 c. AAO's affiliate network did not and would not engage affiliates and publishers
5 who used fake news websites and fake celebrity endorsements to advertise USA
6 DIETARY SUPPLEMENTS products;
- 7 d. AAO would not tolerate noncompliance with legitimacy standards;
- 8 e. AAO would not utilize adult websites, surveys, incentives, or other deceptive
9 advertising.
- 10 f. AAO would initially provide a cap on traffic limited to 75-100 orders per day.
11 This would ensure a good rebill rate and allow USA DIETARY
12 SUPPLEMENTS to assess the quality of AAO's traffic before increasing the
13 traffic; and
- 14 g. AAO would target male demographics over 35 years of age.

15 18. In fact, Defendants ALOISI, AAO and DOES 1-100 operate a shadowy network
16 of publishers and affiliates throughout the U.S., including California, and international
17 locations. The AAO network of publishers and affiliates operate under a cloak of secrecy.
18 AAO does not disclose the names or contact information for its publishers and affiliates to
19 advertisers such as USA DIETARY SUPPLEMENTS, claiming that it is proprietary and
20 confidential information. More importantly, ALOISI, AAO, and DOES 1 to 100 have
21 concealed and/or destroyed the content of the advertisements posted by the affiliate network
22 of publishers using fake news sites, fake celebrity endorsements and fake surveys under the
23 pretext that it is Defendants' proprietary or confidential information. ALOISI, AAO and
24 DOES 1-100 knowingly employed the use of fake news sites, fake celebrity endorsements,
25 fake surveys, and other fraudulent artifices in furtherance of the criminal enterprise.

26 19. On January 20, 2017, WANAMAKER disclosed to ALOISI the identity of USA
27 DIETARY SUPPLEMENTS' finance vendor, Pelekan Partners, Inc. ("Pelekan"), a California
28 corporation based in Huntington Beach, California, who financed its advertising invoices.
Pelekan had a valid and enforceable lending agreement with USA DIETARY

1 SUPPLEMENTS. Pelekan did not have any relationship with AAO or ALOISI prior to
2 WANAMAKER's disclosure of Plaintiff's relationship with Pelekan to ALOISI.
3

4 20. On January 25, 2017, AAO began providing internet advertising services for
5 USA DIETARY SUPPLEMENTS.
6

7 21. On March 15, 2017, ALOISI informed WANAMAKER that one of its affiliate
8 publishers involved in generating traffic to USA DIETARY SUPPLEMENTS had been
9 caught by AAO engaging in blatant noncompliant advertising. ALOISI further informed
10 WANAMAKER that since AAO was not going to pay for the noncompliant traffic, AAO was
11 going to credit USA DIETARY SUPPLEMENTS for this noncompliant activity. The amount
12 of the credit was small as the volume of noncompliant traffic involved was low. The true
13 nature of this ruse was to lure WANAMKER and USA DIETARY SUPPLEMENTS into a
14 false sense of security that AAO was delivering quality compliant traffic.
15

16 22. On or about April 18, 2017, USA DIETARY SUPPLEMENTS began to notice
17 an extremely high rate of credit card chargebacks. USA DIETARY SUPPLEMENTS had to
18 process customer credits, returns, cancellations and chargebacks of sales. USA DIETARY
19 SUPPLEMENTS has continued to experience a high rate of chargebacks which has caused it
20 to incur massive merchant banking fees and charges.
21

22 23. On or about April 18, 2017, USA DIETARY SUPPLEMENTS discovered that
23 ALOISI, AAO and their network of publishers and affiliates had in fact employed the use of
24 fraud to advertise USA DIETARY SUPPLEMENTS' products including, but not limited to,
25 publishing fake news, fake celebrity endorsements, fake surveys, and fake ESPN stories
26 featuring the purported use of USA DIETARY SUPPLEMENTS' products by celebrity
27 athlete Lebron James.
28

28 24. USA DIETARY SUPPLEMENTS protested to AAO that it was being billed for
29 sales generated by fraudulent advertising. In response, on or about June 29, 2017, ALOISI
29 contacted Michael Brooks requesting the contact number for Jeff Brooks, CEO of Pelekan
Partners who provides financing to USA DIETARY SUPPLEMENTS. ALOISI then called
Jeff Brooks and informed him that USA DIETARY SUPPLEMENTS had a large debt with
AAO and that WANAMAKER and USA DIETARY SUPPLEMENTS was in financial

1 distress and did not pay its vendors' invoices. This caused Jeff Brooks to be distressed about
 2 USA DIETARY SUPPLEMENTS' creditworthiness and the threat of potential litigation.
 3 This in turn damaged USA DIETARY SUPPLEMENTS' credit arrangements and fees with
 4 Pelekan Partners. To date, USA Dietary Supplements is still in debit to Pelekan due to the
 5 fraudulent traffic and actions of AAO.

6 25. On or about May 26th 2017, ALOISI and AAO told WANAMAKER that if
 7 USA DIETARY SUPPLEMENTS did not pay its outstanding invoice, AAO would "give it to
 8 CJ and then you're being sued. I hope you realize that", and "If you don't make any effort on
 9 payments then it's going to CJ" and "We're not going to mess around on this one".

10 26. Plaintiff is informed and believes and on the basis of such information alleges
 11 that at all material times, ALOISI, AAO, and DOES 1 to 100 used fraudulent and corrupt
 12 business practices to lure USA DIETARY SUPPLEMENTS and other similarly situated
 13 advertisers to contract for their advertising services. ALOISI, AAO, and DOES 1 to 100
 14 systematically disrupted USA DIETARY SUPPLEMENTS's business by:

- 15 a. Building and maintaining a network of shadowy affiliates and publishers based
 in the U.S. and internationally, who employed the use of deceptive and
 fraudulent techniques to target USA DIETARY SUPPLEMENTS' customers
 and entice them to buy its products online through the use of fake news sites,
 and fake celebrity endorsements. This in turn affected USA DIETARY
 SUPPLEMENTS by triggering customer cancellations, refund requests,
 chargebacks and higher-than-normal merchant processing fees and penalties;
- 16 b. Generating false billing reports to Plaintiff's account that did not reflect the
 actual amounts that should have been billed;
- 17 c. Employing the use of cyber "shaving" by the Static Control function of CAKE
 software to underreport the actual sales triggered in the sales reporting software
 of AAO's publishers and affiliates. Because AAO's publishers and affiliates
 seek to increase their EPC (earnings per click), AAO's and ALOISI's cyber
 shaving techniques incentivize their affiliates and publishers to inflate internet
 traffic by adding more traffic generated by the practice of employing fake news,

1 fake surveys, and fake celebrity endorsements in the advertising of USA
2 DIETARY SUPPLEMENTS' products thus causing Plaintiff more blowback to
3 its sales campaign;

4 d. Misusing co-conspirator credit cards to trigger billable events. Defendants
5 ALOISI, AAO, and DOES 1 to 100 engaged in a scheme to deceive Plaintiff by
6 organizing the placement of orders and then cancelling those same orders within
7 a short period of time. AAO would then bill Plaintiff for the transaction despite
8 the order being cancelled;
9 e. Using threats and intimidation to strong arm payments from Plaintiff by
10 interfering with the contractual relations of USA DIETARY SUPPLEMENTS
11 and its' finance vendor, Pelekan Partners.

12 **CAUSES OF ACTION**

13 **COUNT I**

14 **Tortious Interference with Contractual Relationship**

15 **(Against ALOISI and AAO)**

16 27. Plaintiff re-alleges and incorporates by reference the allegations of paragraphs 1
17 through 26.

18 28. There was a binding enforceable financing contract between USA DIETARY
19 SUPPLEMENTS and Pelekan Partners.

20 29. ALOISI, AAO, and DOES 1 to 100, and each of them, had actual knowledge of
21 the existence of that binding and enforceable financing contract.

22 30. ALOISI, AAO, and DOES 1 to 100, and each of them, intentionally and without
23 justification or privilege, interfered with the contractual relationship between US DIETARY
24 SUPPLEMENTS and Pelekan Partners by making false representations to Pelekan Partners
25 about USA DIETARY SUPPLEMENTS' indebtedness to AAO, and by disparaging USA
26 DIETARY SUPPLEMENTS' business practices.

27 31. On or about June 29, 2017, ALOISI contacted Michael Brooks on Facebook
28 requesting the contact number for Jeff Brooks, the owner of Pelekan Partners who provides
financing to USA DIETARY SUPPLEMENTS. On obtaining Pelekan Partners' telephone

1 number, ALOISI then called Jeff Brooks, CEO of Pelekan Partners, on or about June 29th
 2 and told him that USA DIETARY SUPPLEMENTS had a large debt with AAO and
 3 that WANAMAKER and USA DIETARY SUPPLEMENTS were in financial distress and
 4 did not pay vendors' invoices. This caused Jeff Brooks to be distressed about USA
 5 DIETARY SUPPLEMENTS' creditworthiness and possibility of potential litigation. This in
 6 turn damaged and ended USA DIETARY SUPPLEMENTS' credit arrangements and fees
 7 with Pelekan Partners.

8 32. The statements made by ALOISI to Jeff Brooks were in fact false and were
 9 made with the intent to damage USA DIETARY SUPPLEMENTS' financing agreement with
 10 Pelekan Partners.

11 33. As a consequence of ALOISI's, AAO's and other unknown agents and co-
 12 conspirators' interference, USA DIETARY SUPPLEMENTS has been damaged due to the
 13 loss of favorable financing terms, in the sum of at least \$1,000,000. As a further direct and
 14 foreseeable consequence of Defendants' interference, USA DIETARY SUPPLEMENTS'
 15 reputation in the industry and with Pelekan Partners has been permanently damaged in an
 16 amount according to proof.

17 34. As a result of ALOISI's, AAO's and other unknown agents' and co-
 18 conspirators' fraudulent, oppressive and malicious conduct, Plaintiff is entitled to an award of
 19 punitive damages.

COUNT II

Fraud- Misrepresentation (Against All Defendants)

20 35. Plaintiff re-alleges and incorporates by reference the allegations of paragraphs 1
 21 through 34.

22 36. Defendants ALOISI, AAO, and DOES 1 to 100 made material
 23 misrepresentations of fact to WANAMAKER regarding the legitimacy and quality of the
 24 traffic of AAO's network of publishers/affiliates, and that this traffic was not generated by
 25 fraudulent practices such as the use of fake news articles, fake surveys, and fake celebrity
 26 endorsements. WANAMAKER made multiple requests to AAO, ALOISI, and AAO

1 employees not to use fake news articles, fake surveys, and fake celebrity endorsements in
2 connection with advertising USA DIETARY SUPPLEMENTS' products.

3 37. In a Skype telephone conference call on January 25, 2017, in response to
4 WANAMAKER'S concerns over fake endorsements, Jacki Clason, who was AAO's
5 representative/account manager, told WANAMAKER that AAO was "very quality oriented"
6 and stated there would be "no use of non-compliant fake news, fake celebrity images, names, or
7 doctors, without their express written consent." Clason also stated that AAO "did not tolerate non-
8 compliance" with these standards.

9 38. In a Skype conference call on January 20th, 2017, ALOISI and CLASON told
10 USA DIETARY SUPPLEMENTS that it would receive legitimate web traffic and product orders
11 "We are very quality oriented" and "let us show you our quality before expecting us to flood you with
12 traffic".

13 39. The representations made by defendants were in fact false. The true facts were:

- 14 a. AAO and ALOISI and DOES 1 to 100 extensively employed the use of
15 publisher and affiliates that used fake news articles, fake surveys, and fake
16 celebrity endorsements to advertise USA DIETARY SUPPLEMENTS'
17 products;
- 18 b. AAO, ALOISI and DOES 1 to 100 engaged in the fraudulent practice of
19 "shaving" using the Cake software tool "Static Control" to drive up the number
20 of billable transactions;
- 21 c. AAO, ALOISI and DOES 1 to 100 engaged in the fraudulent practice of using
22 co-conspirator credit cards to trigger billable events. Defendants ALOISI, AAO,
23 and DOES 1 to 100 engaged in a scheme to deceive Plaintiff by organizing the
24 placement of orders and then cancelling those same orders within a short period
25 of time.

26 40. When the defendants made these representations, they knew them to be false
27 and made these representations with the intention to deceive and defraud USA DIETARY
28 SUPPLEMENTS and induce USA DIETARY SUPPLEMENTS to act in reliance on these

representations by placing orders for web traffic, or with the expectation that USA DIETARY SUPPLEMENTS would so act.

41. USA DIETARY SUPPLEMENTS, at the time these representations were made by Defendants and at the time USA DIETARY SUPPLEMENTS took the actions herein alleged, was ignorant of the falsity of Defendants' representations and believed them to be true. In reliance on these representations, Plaintiff was induced to, and did, place orders for web traffic and agreed to pay for the traffic generated by AAO's network thru their financial partner Pelekan Partners.

42. Had USA DIETARY SUPPLEMENTS known the actual facts, it would not have taken such action. USA DIETARY SUPPLEMENTS' reliance on Defendants' representation was justified because Defendants ALOISI and AAO represented that they possessed unique skills, had achieved excellent results for other clients, and were technically capable internet marketers with a legitimate network that would result in lucrative internet traffic.

43. As a direct result of said acts of fraud, USA DIETARY SUPPLEMENTS has been damaged in the sum of at least \$1,000,000, plus interest and attorneys fees.

44. The aforementioned conduct was an intentional misrepresentation, deceit and/or concealment of material facts known to Defendants, with the intention on the part of Defendants of thereby depriving Plaintiff of money or otherwise causing injury, and was despicable conduct that subjected plaintiff to a cruel and unjust hardship and conscious disregard of plaintiff's rights, so as to justify an award of exemplary and punitive damages.

COUNT III

Civil Conspiracy to Commit Fraud (Against All Defendants)

45. Plaintiff re-alleges and incorporates by reference the allegations of paragraphs 1 through 44.

46. Defendants ALOISI, AAO, and DOES 1 to 100, and each of them, acting in concert, came to a mutual understanding that they would participated in a common and unlawful plan to defraud USA DIETARY SUPPLEMENTS by agreeing to and acting in:

- 1 a. Building and maintaining a network of shadowy affiliates and publishers based
2 in the U.S. and internationally, who employed the use of deceptive and
3 fraudulent techniques to target USA DIETARY SUPPLEMENTS' customers
4 and entice them to buy its products online through fraudulent marketing
5 practices including but not limited to the use of fake news sites, fake surveys,
6 and fake celebrity endorsements. This would in turn trigger customer
7 cancellations, refund requests, chargebacks and higher-than-normal merchant
8 processing fees and penalties;
- 9 b. Employing the use of cyber "shaving" by CAKE software using its Static
10 Control function, to underreport the actual sales triggered in the sales reporting
11 software of AAO's publishers and affiliates. Because AAO's publishers and
12 affiliates seek to increase their EPC (earnings per click), AAO's and ALOISI's
13 shaving techniques incentivize their affiliates and publishers to pad internet
14 traffic by adding more traffic generated by the practice of employing fake news,
15 fake surveys, and fake celebrity endorsements in the advertising of USA
16 DIETARY SUPPLEMENTS' products thus causing Plaintiff more blowback to
17 its sales campaign;
- 18 c. Using fraudulent advertising practices designed to trigger billable events to
19 Plaintiff by misusing co-conspirator credit cards. Defendants ALOISI, AAO,
20 and DOES 1 to 100 engaged in a scheme to deceive Plaintiff by organizing the
21 placement of orders and then cancel the same orders within a short period of
22 time. AAO would then still bill Plaintiff for the transaction despite the order
23 being cancelled;
- 24 d. Using threats, disparagement and intimidation to strong arm payments from
25 Plaintiff and interfering with the contractual relations of USA DIETARY
26 SUPPLEMENTS and its' finance vendor, Pelekan Partners.

27 47. Each of these Defendants knowingly conspired with each of the others to
28 effectuate the fraud and maintain the appearance of legitimacy.

48. As a result, USA DIETARY SUPPLEMENTS detrimentally and reasonably relied on the false representations of Defendants and has now been damaged as a result in an amount to be proven at trial, but not less than \$1,000,000, plus interest and attorneys fees.

49. The Defendants named in this count engaged in these acts with oppression, fraud and malice toward USA DIETARY SUPPLEMENTS and USA DIETARY SUPPLEMENTS is therefore entitled to an award of exemplary damages in an amount to be established at trial.

COUNT IV

Unfair Competition – Bus. & Prof. Code § 17200 et seq.

(Against AAO)

50. Plaintiff re-alleges and incorporates by reference the allegations of paragraphs 1 through 49.

51. Defendants ALOISI, AAO, and DOES 1 to 100, and each of their conduct of misrepresenting the legitimacy of their advertising services, employing fraudulent advertising practices to market USA DIETARY SUPPLEMENTS' products and the products of similarly situated advertisers, and intentionally interfering with USA DIETARY SUPPLEMENTS' existing contractual relations with Pelekan Partners, and other culpable conduct alleged hereinabove, constitute unfair, unlawful, fraudulent and/or deceptive business practices within the meaning of Business and Professions Code §§ 17200 et seq.

52. By reason of such wrongful acts, USA DIETARY SUPPLEMENTS is and was, and will be in the future, deprived of the profits and benefits of said business relationships, agreements, and transactions with various prospective customers, and/or vendors and finance partners, and defendants have wrongfully obtained profits and benefits in an amount to conform to proof at trial, but in no event less than the jurisdictional minimum of this Court.

COUNT V

Violation of 18 U.S.C. §1962(c) - RICO

(Against All Defendants)

53. Plaintiff re-alleges and incorporates by reference the allegations of paragraphs 1 through 52.

1 54. Defendants ALOISI, AAO, and DOES 1 to 100, constitute an “enterprise” as
2 that term is defined in 18 U.S.C. § 1961, engaged in activities proscribed by 18 U.S.C. §
3 1343. Such activities included willingly and knowingly devising a scheme or artifice to
4 defraud, or to obtain money or property by means of false pretenses, representations, or
5 promises and affected interstate commerce through the use of fraudulent internet advertising
6 for sale of USA DIETARY SUPPLEMENTS products, and online sales transactions of those
7 products to customers in multiple states.

8 55. Defendants ALOISI, AAO, and DOES 1 to 100, as persons within the meaning
9 of 18 U.S.C.A. § 1961(3), received income derived, directly or indirectly, from a pattern of
10 racketeering activity which was used to fraudulently generate internet traffic and billable events.

11 56. The predicate acts which constitute this pattern of racketeering activity are:

- 12 a. From January 20, 2017, to May 2017, Defendants advertised USA DIETARY
13 SUPPLEMENTS’ products on the internet using fake stories intended to
14 deceive the public and generate sales of the products;
- 15 b. From January 20, 2017, to May 2017, Defendants advertised USA DIETARY
16 SUPPLEMENTS’ products on the internet fake celebrity endorsements,
17 including a fake endorsement by athlete Lebron James that was published
18 sometime in early 2017;
- 19 c. From January 20, 2017, to May 2017, Defendants employed a scheme of using
20 credit card numbers to order USA DIETARY SUPPLEMENTS’ products and
21 then cancel the orders, for the purpose of generating a billable event that USA
22 DIETARY SUPPLEMENTS would have to pay Defendants for;
- 23 d. From January 20, 2017, to May 2017, Defendants employed the use of CAKE
24 “shaving” software through the “Static Control” function to falsely increase
25 Defendants’ profits.
- 26 e. On or about June 26th, 2017, Defendants threatened to sue USA DIETARY
27 SUPPLEMENTS in order to extort payment from USA DIETARY
28 SUPPLEMENTS for fraudulently generated traffic and ‘clicks’.

1 57. The individual Defendants and other persons, including DOE affiliates, for the
2 purposes of executing the scheme to defraud USA DIETARY SUPPLEMENTS, and in
3 furtherance of the wrongful acts set forth herein, transmitted and caused to be transmitted
4 communications by means of wire including, without limitation, telephone calls and Voice
5 Over Internet Protocol calls among and between ALOISI, AAO, USA DIETARY
6 SUPPLEMENTS, WANAMAKER, and Pelekan Partners.

7 58. The individual Defendants and other persons, including DOE affiliates, for the
8 purposes of executing the scheme to defraud USA DIETARY SUPPLEMENTS, and in
9 furtherance of the wrongful acts set forth herein, transmitted and caused to be transmitted
10 communications by means of wire including, without limitation, fake news articles, fake
11 surveys, and fake celebrity endorsements on internet websites advertising USA DIETARY
12 SUPPLEMENTS' products.

13 59. Each use of the wires in furtherance of the Defendants' and the other
14 individuals' scheme and artifice to defraud USA DIETARY SUPPLEMENTS, and in
15 furtherance of the criminal acts set forth herein, constitutes a separate offense.

16 60. The individual Defendants and other persons, including DOE affiliates, for the
17 purposes of effectuating the aforesaid scheme, have concealed the various frauds perpetrated
18 on USA DIETARY SUPPLEMENTS by, among other things, concealing and destroying the
19 internet advertisements featuring the fraudulent content.

20 61. In addition, Defendants ALOISI, AAO, and DOES 1 to 100, have received
21 income that was derived, directly or indirectly, from a pattern of racketeering activity in
22 which such Defendants participated and have used or invested, directly or indirectly, at least a
23 part of such income in the acquisition of an interest in, or the establishment or operation of,
24 an enterprise that is engaged in, or whose activities affect, interstate or foreign commerce, in
25 violation of 18 U.S.C. § 1962(a).

26 62. As a direct and proximate result of the Defendants' conduct, USA DIETARY
27 SUPPLEMENTS has sustained injury to its business or property within the meaning of 18
28 U.S.C. § 1964(c) and is entitled to treble damages. Plaintiff has been damaged in the sum of

1 at least \$1,000,000. USA DIETARY SUPPLEMENTS is further entitled to recover its'
2 attorney's fees and costs pursuant to 18 U.S.C. § 1964(c).
3

4 **COUNT VI**
5

6 **Violation of 18 U.S.C. §1962(d) – RICO Conspiracy**
7
8 **(Against All Defendants)**

9 63. Plaintiff re-alleges and incorporates by reference the allegations of paragraphs 1
10 through 62.

11 64. The enterprise operated by the Defendants had a structure for making decisions
12 and for controlling and directing the affairs of the group of Defendants on an ongoing basis.
13 The Defendants acted together in an organized fashion. The structure had a hierarchy
14 overseen and controlled by Defendants ALOISI, AAO and DOES 1 to 100, who acting
15 individually and collectively, conceived and carried out the various sales transactions by
16 fraudulent activities that secretly resulted in the illegal and improper payment of monies and
17 other consideration to the Defendants and persons affiliated with the Defendants.

18 65. From January 20, 2017, to May 2017, Defendants ALOISI and AAO, and other
19 agents of Defendants, engaged in a series of communications and discussions with their
20 affiliate network, namely the DOE publishers of fake news, fake surveys, and fake
21 endorsement websites, in an effort to devise, foster or create a fraudulent scheme to advertise
22 USA DIETARY SUPPLEMENTS' products in order to generate billable events and traffic,
23 thereby fraudulently depriving Plaintiff of money.

24 66. The individual Defendants and Defendant AAO, in concert with their agents or
25 employees, including DOES 1 through 100, conspired to violate 18 U.S.C. § 1343 for which
26 treble damages, costs of suit and attorneys' fees are required.

27 67. In the commission of certain of the acts of racketeering set forth in Count V,
28 ALOISI, AAO and DOES 1-100 conspired to violate 18 U.S.C. § 1343 and 18 U.S.C. §
1962(c), in violation of 18 U.S.C. § 1962(d). At all relevant times, each of the Defendants is
and was a person within the meaning of 18 U.S.C. §§1962(c) and 1962(d).

68. In furtherance of this conspiracy, Defendants ALOISI, AAO, and DOES 1-100 agreed to the commission of the acts of racketeering set forth in Count V, and agreed to violate 18 U.S.C. § 1343 and 18 U.S.C. §1962(c). Specifically, ALOISI, AAO and DOES 1-100 agreed to the commission of all the acts specified in Count V, and each further agreed to the commission of at least two of those acts, including but not limited to: creating false records using CAKE software's "Static Control" function to facilitate the laundering of AAO funds; manipulating software to reduce reportable events; employing the widespread use of fake news, fake surveys, and fake celebrity endorsements to advertise Plaintiff's products; employing the use of credit cards to generate orders that were then cancelled.

69. As a direct and proximate result of the Defendants' conduct, USA DIETARY SUPPLEMENTS has sustained injury to its business or property within the meaning of 18 U.S.C. § 1964(c) and is entitled to treble damages. Plaintiff has been damaged in the sum of at least \$1,000,000. USA DIETARY SUPPLEMENTS is further entitled to recover its' attorney's fees and costs pursuant to 18 U.S.C. § 1964(c).

PRAYER

WHEREFORE, USA DIETARY SUPPLEMENTS prays judgment against Defendants ELI ALOISI, ABOVE ALL OFFERS, INC., and DOES 1 to 100, jointly and severally, as follows:

1. For compensatory damages to be proven at trial, in an amount not fully determined at this time but in excess of \$1,000,000;
2. For punitive damages in an amount to be determined at trial;
3. For treble damages under Count V and Count VI;
4. For prejudgment interest;
5. For attorneys' fees, costs, and expenses incurred by the prosecution of this action; and
6. For such other and further relief as the Court may deem proper.

JURY TRIAL DEMANDED.

1 Date: August 29, 2017

LAW OFFICES OF JACQUES CHEN

2 /s/ Jacques Chen

3 JACQUES CHEN, Esq.

4 Attorneys for Plaintiff

5 USA DIETARY SUPPLEMENTS

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